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10/049,891	07/08/2002	Maria Raidel	KCC 4814 (KC #15,978)	2410
321	7590	12/05/2006	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			HILL, LAURA C	
			ART UNIT	PAPER NUMBER
			3761	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/049,891
Filing Date: July 08, 2002
Appellant(s): RAIDEL ET AL.

MAILED 1
DEC 05 2006
Group 3700

Richard L. Bridge
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 22 September 2006 appealing from the Office action mailed 4 May 2006 **(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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US 4,988,344 REISING et al. 1-1991

US 5,387,210 MURAKAMI 2-1995

"Lateral" Webster's II New College Dictionary, (1995) p. 621.

"Lateral" Cambridge Advanced Learner's Dictionary (2006)

"Transverse" Merriam-Webster online dictionary (2006)

"Transverse" Cambridge Advanced Learner's Dictionary (2006)

"Transverse" Oxford English Dictionary online (2006)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

1. Claims 44-48, 54-55, 58, and 82-83 are rejected under 35 U.S.C. 102(b) as being anticipated by Lassen et al. (EP 0687453 A1; herein 'Lassen'). Regarding claims 44, 54, and 82-83 Lassen discloses absorbent core 18 of sanitary napkin 10, which absorbs body fluids and conforms to the body, having the tissue construction bi-folded to form two symmetrical square halves and a flexure axis/fold line 24 along longitudinal centerline Y-Y (col. 1, ll. 3-5, col. 6, ll. 13-22 and col. 10, ll. 2-7, figure 3). Lassen further discloses the longitudinal flexure axis/fold line 24 can be positioned transversely, i.e., along the X-X axis and off center from the longitudinal center line Y-Y, and thus extending at least in part laterally and longitudinally of the absorbent body 18 and creating segments foldable relative to one another (col. 6, ll. 22-25).

Regarding claims 45-48 Lassen discloses absorbent core which includes a body-facing/inner surface 20 positioned adjacent the cover 12, a garment-facing/outer surface 22 positioned adjacent the baffle 14, a flexure axis 24/fold line with a depth less than unfolded absorbent article thickness that is formed in at least one of the surfaces 20,22, and a depth extending substantially through the entire thickness (fig. 1 and col. 3, ll. 55-col. 4, line 1).

Regarding claim 55 Lassen discloses flexure axis 24/fold line forms first and second members 26 and 28/segments, which have a polygonal shape (fig. 1).

Regarding claim 58 Lassen discloses cover layer 12 adapted for contact with wearer's skin, inner layer 20 that is liquid permeable since it is a part of absorbent body 18, baffle 14/backing layer in opposed relation with inner layer 20 and the absorbent body 18 disposed between cover layer 12 and baffle 14/ backing layer (fig. 1).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 49-53 and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen et al. (EP 0687453 A1; herein 'Lassen') as applied to claims 44, and further in view of Reising et al. (US 4,988,344; herein 'Reising'). Regarding claim 49 Lassen *does not expressly disclose* the absorbent body 18 is multi-layered. **Reising** discloses multiple layered absorbent core 42 for use in sanitary napkins (col. 1, ll. 6-8, col. 2, ll. 64-col. 3, line 3) and liquid handling/outer layer 50 and storage/inner layer 52 (col. 4, ll. 54-57) for acquiring, distributing, and storing subsequent loadings of

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liquids (col. 3, lines 1-3). One would be motivated to modify the absorbent core of Lassen with the multi-layered core of Reising to enhance acquiring, distributing, and storing subsequent loadings of liquids since both references disclose absorbent cores for handling bodily waste. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the absorbent core, thus providing an absorbent core constructed of at least two layers.

Regarding claim 50 Lassen *does not expressly disclose* the relative dimensions of a multi-layered absorbent body. **Reising** discloses storage/inner layer 52 will be have a smaller surface area (and thus a smaller length and/or width) than liquid handling/outer layer 50 (col. 17, ll. 40-43) so that the storage/inner layer 52 drains liquid handling/outer layer 50 of much of its acquired liquid load (col. 18, lines 2-4). One would be motivated to modify the absorbent body of Lassen with the multi-layered relative size dimension core of Reising to enhance acquiring, distributing, and storing subsequent loadings of liquids since both references disclose absorbent cores for handling bodily waste. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the absorbent core, thus providing an absorbent core having layers with relative size dimensions.

Regarding claims 51-53 Reising further discloses the inner layer 52 has a surface area of about 25% of the surface area of outer layer 50 (col. 17, ll. 30-49).

Regarding claim 56 Lassen discloses inner and outer layers of flexure axis/fold line 24 with multiple slits/scores 36 that extend through a percentage of the inner surface 20 (col. 8, ll. 26-27 and fig. 1).

Regarding claim 57 Lassen discloses inner surface 20 nearer the wearer's body than outer surface 22 and discloses inner surface 20 having a polygon shape (fig. 1).

3. Claims 59-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen et al. (EP 0687453 A1; herein 'Lassen') as applied to claim 58, and further in view of Murakami (US 5,387,210; herein 'Murakami'). Regarding claims 59-60 Lassen et al. *does not expressly* disclose side wings with an adhesion system. **Murakami** discloses it is well known to include wings extending outward from opposite side edges of a longitudinally central area of said core on sanitary napkins (col. 1, ll. 14-19). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the sanitary napkin of Lassen, thus providing side wings that adhere to the garment to prevent leakage.

Regarding claim 61 Lassen discloses a means for attaching the sanitary napkin 10 to an undergarment-using adhesive placed on the garment side/outer surface of baffle 14/backing layer (col. 13, ll. 38-40).

Regarding claim 62 Lassen discloses a transfer layer 23 positioned between the cover 12 and absorbent core 18 for rapidly transporting body fluids into the absorbent core and to reduce the occurrence of rewet and a surfactant/distributing layer sprayed on cover 12 to enhance liquid penetration to the absorbent core 18 (col. 4, ll. 2-6 and 47-49).

Regarding claim 63 Lassen discloses an absorbent article as discussed above with respect to claim 59 (col. 2, line 2).

Regarding claim 64 Lassen discloses an absorbent core 18 that can be constructed of creped cellulose wadding (col. 5, ll. 48-49). Meyer et al. reference (US 4,798,603), incorporated by reference into the Lassen et al. reference, includes a top sheet 14 made of synthetic polymers such as polypropylene (col. 4, ll. 32-35). Lassen et al. does not expressly disclose the absorbent body comprises coform. It would be obvious to one of ordinary skill in the art that one of the layers of the absorbent body could comprise Coform, which is a blend of cellulose and polypropylene, since Lassen et al. discloses using synthetic polymers such as cellulose and polypropylene.

Regarding claim 65 Lassen discloses the absorbent core can be constructed from super absorbent polymers (col. 5, line 50).

Regarding claims 66-67 Lassen discloses a cover 12 that encases a central and edge portion of sanitary napkin 10 or alternatively the cover 12 can extend beyond the absorbent core 18 and be peripherally joined by an adhesive or any other joining method known in the art (col. 4, ll. 16-27 and fig. 1).

Regarding claims 68-69 Lassen *does not expressly disclose* the bonds are hot-melt adhesive or welding. One would be motivated to modify the bonding to include hot-melt adhesive or welding since Lassen discloses the use of any adhesive or joining methods, including the aforementioned attachment methods. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the central and edge portions of the absorbent article, thus providing hot-melt adhesive or welding bonded portions.

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4. Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen et al. (EP 0687453 A1; herein 'Lassen'), and further in view of Reising et al. (US 4,988,344; herein 'Reising') as applied to claim 49. Lassen further discloses a transfer layer 23/flow layer positioned between the cover 12 and absorbent core 18 for rapidly transporting body fluids into the absorbent core and to reduce the occurrence of rewet and a surfactant sprayed on cover 12 to enhance liquid penetration to the absorbent core 18 as discussed in claim 62 (col. 4, ll. 2-6 and 47-49).

5. Claims 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen et al. (EP 0687453 A1; herein 'Lassen'), and further in view of Reising et al. (US 4,988,344; herein 'Reising') as applied to claim 49, and further in view of Uitenbroek et al. (US 5,897,541; herein 'Uitenbroek'). Lassen/Reising *does not expressly disclose* the layers of the absorbent body being differentiated visually via a different color.

Uitenbroek discloses laminates for use in absorbent garments such as feminine care products (col. 1, ll. 8-11), the laminate 10 having second layer 14 with a different coloration than first layer 12 for visual recognition of each layer (col. 1, ll. 35-43, figures 1-3). One would be motivated to modify the absorbent layers of Lassen/Reising with colored layers of Uitenbroek for visually differentiation since both references disclose multi-layered absorbent layers for use in personal care articles. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the laminate layers, thus providing visually differentiated multi-colored layered absorbent core.

6. Claim 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen et al. (EP 0687453 A1; herein 'Lassen') in view of Murakami (US 5,387,210; herein 'Murakami'), and further in view of Reising et al. (US 4,988,344; herein 'Reising'). Meyer et al. ('603), incorporated by reference into Lassen, discloses wrap sheet 30/cover layer that is configured to have an effective average pore size which is smaller than the effective pore size of the transport layer and functions to reduce and restrict flow back of liquids against the wearer's skin (col. 6, ll. 11-14). Lassen/Murakami *do not expressly disclose* porosity decreasing from the cover to the outermost layer of the absorbent body. **Reising** discloses a relative capillary difference between the zones 56, 58 surrounding absorbent layers 48, 50, 52 to establish a capillary force gradient (col. 9, ll. 27-44). One would be motivated to modify the porosity of the layers to establish a capillary force gradient for improved liquid handling since the references disclose absorbent cores for handling bodily waste. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the layers, thus providing a capillary force gradient.

(10) Response to Argument

The term "fold line" is defined by Appellant as referring to the "areas of a material processed for separation to form the segments of the absorbent body. That is, the dividing seam, or fold line, refers to creases, cuts or other indentations formed in the absorbent body to define segments of the absorbent body that are capable of folding relative to each other" (see page 4, amended fifth paragraph).

In response to Appellant's argument that the references fail to show or suggest at least one fold line extending at least in part laterally of the absorbent body as required by independent claim 44 (see Grounds of Rejection pages 5-9), examiner maintains that flexure axis 24 of Lassen figure 2 extends in part laterally (on the side) since Lassen discloses the central, longitudinal flexure axis 24 can be positioned transversely, i.e., along the X-X axis, and off center from the longitudinal center line Y-Y, a distance ranging from about 0 to about 10 millimeters, without adversely effecting the functionality of the absorbent core 18 to adopt various body-accommodating configurations (see column 6, lines 22-28 and page of Office action dated 4 May 2006). Thus, Lassen discloses an axis that extends laterally or on the side as required by Appellant's independent claims. It is additionally noted that a transverse axis is not necessarily equivalent to the recitation of "extending at least in part laterally of the absorbent body." Appellant recites that the fold line extends AT LEAST IN PART LATERALLY (on the side) rather than extending *entirely* across a transverse axis that is perpendicular to a longitudinally extending and vertical axis. Appellant alleges that "each of the exemplary embodiments includes a fold line that extends either parallel to

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or coaxial with the lateral axis of the absorbent body, or extends other than parallel to the longitudinal axis of the absorbent body so as to have a lateral component (e.g. vector)" (see Grounds of Rejection page 5). However, it is noted that the term "lateral" has not been specifically set forth in Appellant's specification and is thus given its broadest reasonable plain meaning interpretation according to *In re Zletz*, 893 F. 2d 319, 3211, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). The plain meaning definition of "lateral" has been interpreted to mean "Of, pertaining to, or located at or on the side" (Webster's II New College Dictionary, 1995). Thus the assumption that the "fold line" is required to extend in a direction parallel a transverse axis of the absorbent body is insufficient and is not required by the claim limitations. Moreover, since flexure axis 24 of Lassen divides absorbent core 18 into three-dimensional strip like elements 26, 28 (column 6, lines 38-42 and figure 2), that extend at least in part laterally and in a direction parallel to the transverse axis and thus furthermore meet the claim recitation regardless of the interpretation of the term "extending...laterally."

In response to Appellant's argument that the flexure axis 24 of Lassen cannot extending both in part longitudinally of the absorbent body and extending in part laterally (see Grounds of Rejection pages 9-11), flexure axis 24 extends the length of the absorbent core (and thus in part longitudinally) [column 6, lines 19-21] and also extends laterally as discussed above.

(11) Related Proceeding(s) Appendix

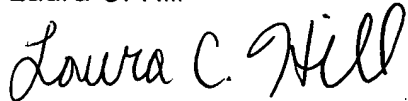
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Laura C. Hill

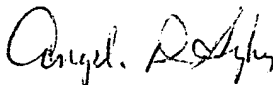


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Definition

[< - Back to results](#)**lateral** [Show phonetics](#)

adjective [before noun] SPECIALIZED
relating to the sides of an object or to sideways movement:

lateral movement

Trim the lateral shoots of the flower (= the ones which grow sideways from the main stem of a plant).

laterally [Show phonetics](#)

adverb SPECIALIZED

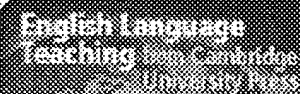
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Main Entry: **¹trans·verse** 🔊 🔊

Pronunciation: tran(t)s-'v&rs, tranz-, 'tran(t)s-",
'tranz-

Function: *adjective*

Etymology: Middle English, from Latin *transversus*, from
trans- + *-versus* (as in *adversus* adverse)

1 : acting, lying, or being across : set crosswise

2 : made at right angles to the long axis of the body <a
transverse section>

- **trans·verse·ly** *adverb*

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adjective SPECIALIZED

in a position or direction that is at an angle of 90° to something else:

The main roof beams are given extra support by the smaller transverse beams.

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transverse

- **adjective** situated or extending across something.

— DERIVATIVES **transversely** adverb.

— ORIGIN from Latin *transvertere* 'turn across'.



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